

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

LENNON IMAGE TECHNOLOGIES,
LLC,

Plaintiff,

v.

DITTO TECHNOLOGIES, INC.

Defendant.

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Civil Action No. _____

JURY TRIAL DEMANDED

**PLAINTIFF'S COMPLAINT FOR PATENT INFRINGEMENT
TO DITTO TECHNOLOGIES, INC.**

Plaintiff Lennon Image Technologies, LLC ("LIT") files this Complaint against Ditto Technologies, Inc. ("Defendant" or "Ditto") and alleges as follows:

PARTIES

1. Plaintiff LIT is a Texas Limited Liability Company with its principal place of business at 1910 East Southeast Loop 323, #244, Tyler, Texas 75701.

2. Upon information and believe, Defendant Ditto is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 440 Brannan St., San Francisco, California 94107. Ditto may be served with process through its registered agent Katherine Endress, 440 Brannan St., San Francisco, California 94107.

BACKGROUND

3. On information and belief, Defendant Ditto engages in electronic commerce conducted on and using at least, but not limited to, the website www.ditto.com.

4. On information and belief, Defendant Ditto owns, operates, and/or directs the operation of the website www.ditto.com.

5. The website www.ditto.com has an apparatus for manipulating a customer image corresponding to a customer ("Virtual Try-On Interface").

6. Defendant Ditto provides users with access to its websites and provides users with the ability to download, upload, and/or install software required to operate its Virtual Try-On Interface.

7. Defendant directs users to operate its Virtual Try-On Interface, for example, by providing instructions on proper use and operation of its Virtual Try-On Interface.

JURISDICTION AND VENUE

8. This is an action for patent infringement arising under the patent laws of the United States of America, Title 35, United States Code.

9. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

10. Upon information and belief, Defendant is subject to this Court's general and/or specific personal jurisdiction because it (a) is a resident of the State of Texas; (b) has designated an agent for service of process in the State of Texas; (c) has committed acts of infringement in the State of Texas as alleged below; and/or (d) is engaged in continuous and systematic activities in the State of Texas.

11. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendant has a regular and established place of business in this district, and/or has transacted business in this district, and/or has committed, contributed to the commitment of, and/or induced acts of patent infringement in this district.

THE PATENT-IN-SUIT

12. On September 23, 2003, the United States Patent and Trademark Office issued United States Patent No. 6,624,843 (“the ‘843 Patent”) entitled “Customer Image Capture and Use Thereof in a Retailing System,” a true copy of which is attached as Exhibit A.

13. LIT is the owner by assignment of the ‘843 Patent and owns all right, title and interest in the ‘843 Patent, including the right to sue for and recover all past, present and future damages for infringement of the ‘843 Patent.

CLAIM 1 – INFRINGEMENT OF U.S. PATENT NO. 6,624,843

14. Defendant has been and is now directly infringing one or more claims of the ‘843 Patent in violation of 35 U.S.C. § 271(a), by making, using, selling, offering for sale or importing in the United States the computer implemented website www.ditto.com, which has an apparatus for manipulating a customer image corresponding to a customer.

15. In addition and/or in the alternative, Ditto has been and/or is now indirectly infringing one or more claims of the ‘843 Patent and is continuing to engage in such indirect infringement in violation of 35 U.S.C. § 271(b) by inducing visitors to its website and the Virtual Try-On Interface to directly infringe the ‘843 Patent through their use of the infringing instrumentality. Ditto induces such infringement by at least making its website available to end users and providing access to the Virtual Try-On Interface and the necessary software to operate the same. Ditto engages in such activities knowingly and, at least from the time of receipt of the

present complaint, has done so with the knowledge that such activity encourages end users to directly infringe the '843 Patent.

16. As a direct and proximate consequence of the acts and practices of the Defendant in infringing, directly and/or indirectly, one or more claims of the '843 Patent, LIT has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284 in an amount to be determined at trial.

17. The limitation of damages provision of 35 U.S.C. § 287(a) is not applicable to LIT.

DEMAND FOR JURY TRIAL

18. LIT, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Lennon Image Technologies, LLC requests entry of judgment that:

1. Defendant has infringed the patent-in-suit;
2. Defendant accounts for and pays to Plaintiff all damages caused by its infringement of the patent-in-suit;
3. Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to it by reason of one or more of Defendant's patent infringement;
4. The Court declare this an exceptional case and that Plaintiff be granted reasonable attorneys' fees in accordance with 35 U.S.C. § 285;
5. Costs be awarded to Plaintiff; and
6. Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: March 27, 2013

Respectfully submitted,

BUETHER JOE & CARPENTER, LLC

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